COURT NO.2

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 1615 OF 2002 (S/B)
(Old No. 36665 of 1999)

Harish Goel S/o Sri Jai Chand,
R/o 481, Old Tehsil, Town & Post Office,
Roorkee, District Hardwar

…… Petitioner

Versus

1. Central Administrative Tribunal, Allahabad
2. The Registered Society, the Council of Scientific & Industrial Research, Rafi Marg, New Delhi, through its Director General
3. The Central Building Research Institute, Roorkee, District Hardwar, through its Director

…… Respondents

Sri Nagesh Aggarwal, learned counsel for the petitioner
Sri Ashok Aggarwal, learned counsel for respondents

Dated: February 23, 2006

Coram: HON'BLE P.C. VERMA, J.
HON'BLE B.C. KANDPAL, J.

By means of this writ petition, the petitioner has prayed for writ of certiorari quashing the impugned judgment and order-dated 21.05.1999 passed by Central Administrative Tribunal, Allahabad (Respondent No. 1), which is contained in Annexure No.12 to this writ petition.

2. Brief facts of the case as narrated by the petitioner are that the petitioner was working as Senior Scientific Assistant in the Central Building Research Institute, Roorkee and he was charge sheeted for commission of three acts of misconduct. The petitioner was made permanent Junior Scientific Assistant on

16.05.1957 and was promoted as Senior Scientific Assistant w.e.f. 1610.1958. Vide order dated 12.01.1959, he was suspended from service on the report of Sri Rahman, Assistant Director (Information) regarding certain matters against the petitioner on the ground that he had furnished copies of some certificates alleging to have been signed by Sri Rahman to the effect that he was present in the Institute upto 5 P.M, although upto 20.09.1958, no such certificate was granted. Thereafter, a charge sheet dated 19.01.1959 was served upon the petitioner and an objection was raised by the petitioner to the said charge sheet. Consequently, the said charge sheet was cancelled and a second charge sheet was issued on 28.02.1959 by the Director General whose authority was not questionable as the authority of their Law Officer who was a Sub-ordinate Officer was questioned by the petitioner. In the said charge sheet, the names of the witnesses were also mentioned. Thereafter, an inquiry officer was appointed and inquiry was proceeded. The grievance of the petitioner before the Tribunal was that in conducting the inquiry, the inquiry officer violated the procedure laid down in Central Civil Services (Classification, Control & Appeal) Rules, in as much as he was not supplied the copies of the documentary evidence considered in the course of inquiry and further he was not given an opportunity to cross-examine any witness purported to have supported the charges. The enquiry officer submitted his report to the Disciplinary Authority and acting on the basis of said report, the Disciplinary Authority also issued a show cause notice. The petitioner submitted his reply to the said showcase notice and as the reply was not found satisfactory, the impugned punishment order was passed. The petitioner did not comply with the punishment order and also did not join on the reverted

post at Mysore where he was transferred. Later on, the applicant filed a Civil Suit in which an injunction was granted. Thereafter, an appeal was filed before the said injunction in which the said injunction was vacated. Lateron, the petitioner resigned from the service and admittedly he started practicing law but the punishment order was challenged by him by filing a Civil Suit by which operation of law was transferred to the Tribunal. The learned Tribunal after perusing the entire evidence on record vide his judgment and order dated 21.02.1992 quashed the reversion order of the petitioner dated 18.11.1959. It was further directed that it will be open for the respondents to decide whether the application who later on resigned from the service and is no longer in service is entitled to any monitory benefit or not in view of the fact that he did not comply with the order or he ceased to remain in service. Thereafter, vide letter dated 02.11.1992, the Administrative Officer of Respondent No.3 informed the petitioner that a cheque of Rs.9,541.00 was sent alongwith that letter towards payment of monetary benefits as per judgment dated 21.02.1992 passed by the Tribunal. The petitioner was not satisfied with the payment made by Respondent No.2 and 3, hence he filed a contempt petition before Respondent No.l. The Respondent No.1 vide his order dated 26.04.1994 finally disposed of the said contempt petition. Thereafter, the petitioner filed an Original Application No. 1943 of 1994 before the Central Administrative Tribunal, Allahabad for payment of monetary benefits, which according to the petitioner were still due to him. The Central Administrative Tribunal, Allahabad vide his judgment and order dated 21.05.1999 dismissed the said application. Feeling aggrieved, the petitioner has come up in the writ petition.

3. We have heard learned counsel for the parties and perused the entire evidence on record.

4. Learned counsel for the petitioner submitted that the Tribunal has erred in holding that the order impugned was barred by *Res-judicata.* The argument of learned counsel for the petitioner is misconceived. The Central Administrative Tribunal in his order has categorically recorded a finding that since the petitioner had filed a Civil Suit earlier and as the same was later on transferred to the Tribunal, the same was decided by the Tribunal vide order dated 21.02.1992. Hence, the original application was dismissed as not maintainable by the Tribunal on the ground of *Res judicata.*

5. Learned counsel for the petitioner further submitted that the Tribunal has wrongly rejected the application of the petitioner on the ground of limitation. The learned Tribunal has recorded the finding in this regard that the petitioner's claim was for the period from 1959 to 1992 and thus the same was also time barred. Moreover, as per directions given in T.A. 2/89, the respondents decided the entire issue and the monetary benefits were also been given to the petitioner for which he was entitled. The petitioner also filed a contempt petition, which was also dismissed vide order dated 26.04.1994 on the ground that the petitioner was paid entire dues as per Rules and accordingly, the learned Tribunal after dealing with the entire issues reached to the conclusion that there is no cause of action arisen to the petitioner for the relief claimed by him and hence the application of the petitioner was dismissed as not maintainable by the learned Tribunal vide impugned order.

6. In view of the above, we do not find any perversity or illegality in the impugned judgment. The findings recorded by learned Tribunal are the findings of

fact and do not call for any interference by this Court in exercise of powers under Article 226 of Constitution of India.

7. Hence, the writ petition is devoid of merit and is hereby dismissed. No order as to costs.

(B.C. Kandpal, J.) **(P.C. Verma, J.)**

Rajeev Dang